IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 1365 of 2005

Between:

Shahed Khan S/o Sattar Khan, R/o H. No. 19-3-131/1/1, Near Jame Masjid, Jahanuma, Hyderabad

..... PETITIONER

AND

The Regional Passport Officer, Passport Officer, Hyderabad having its Office at Secunderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue the Writ or order more particularly one in the nature of writ of mandamus declaring the action of the Respondent not considering the representation of petitioner for correction of dated of birth in the existing passport and not issuing a fresh passport is arbitrary, discriminatory and illegal which is against the spirit of the constitution of India and consequently direct the Respondent to correct the date of birth as 10-06-1982 instead of 14-05-1980 in petitioner passport No. 354567 issued on 05-12-2001 by issuing a fresh passport and pass such other order or orders.

Counsel for the Petitioner: MR.NAZIR AHMED KHAN

Counsel for the Respondent: MR.V. Bhaskar Reddy, (Addl.C FOR CG)

The Court at the stage of admission made the following ORDER:

Heard Sri Nazir Ahmed Khan, learned counsel for the petitioner and Sri V.Bhaskar Reddy, learned Standing Counsel appearing for the respondent.

This writ petition is filed seeking a declaration that the action of the respondent in not considering the representation of the petitioner for correction of the date of birth in the existing passport and not issuing a fresh passport, as arbitrary and illegal.

It is the case of the petitioner that his actual date of birth is 10-06-1982, but in the passport issued to him by the respondent, his date of birth is wrongly mentioned as 14-05-1980, and that though he represented to the respondent to alter his date of birth in the passport and issue fresh one, the respondent refused to entertain the application, on the ground that they had no power to make correction of date of the birth in the passport. Hence, this writ petition.

It is required to notice that there is no provision under the Passport Act, 1967, which empowers the Regional Passport Officer to correct entries in the passport. However, pursuant to the Judgment of the High Court of Judicature at Bombay, in W.P.No.1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-04-2001, which are to the following effect.

a. Where an applicant is seeking rectification/correction of a mistake in the

entry on date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for declaratory order in such cases .

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e. school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e. municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.

As of today, if any request for correction of the date of birth in the passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In that view of the matter, I deem it appropriate to dispose of the writ petition, with a direction to the respondent to receive the application of the petitioner for correction of the date of birth, and process the same after verifying the genuineness or otherwise thereof basing on the documents and pass appropriate orders in accordance with law. No order as to costs.

_____

02-02-2005

Note: Issue C.C. by Monday

(B/o)

kdl

To

1. The Regional Passport Officer, Passport Officer, Hyderabad having its Office at Secunderabad.

2. Two C.D. Copies.